

Nos.
PD-0935-21 PD-0936-21 PD-0937-21
PD-0938-21 PD-0939-21 PD-0940-21

IN THE TEXAS COURT
OF CRIMINAL APPEALS

FILED
COURT OF CRIMINAL APPEALS
2/24/2022
DEANA WILLIAMSON, CLERK

EX PARTE EMAD BISHAI, *Petitioner*

CONSOLIDATED APPEAL FROM THE NINTH COURT OF APPEALS
IN BEAUMONT, TEXAS
AND
THE 359TH DISTRICT COURT FOR MONTGOMERY COUNTY, TEXAS

Trial Cause Nos.	Appellate Cause Nos.
19-11-14893-CR	09-21-00158-CR
19-11-14894-CR	09-21-00159-CR
19-11-14896-CR	09-21-00160-CR
19-11-14902-CR	09-21-00161-CR
19-11-14905-CR	09-21-00162-CR
20-09-11172-CR	09-21-00163-CR

NOTICE OF RESOLUTION OF UNDERLYING CASES
AND
MOTION TO DISMISS APPEAL

Matt Hennessy
Texas Bar No. 00787677
mhennessy@ghmfirm.com
700 Louisiana, Suite 2300
Houston, Texas 77002
713.224.4400 – Telephone

Samy Khalil
Texas Bar No. 24038997
samy@khalil.law
2001 Kirby, Suite 1002
Houston, Texas 77019
713.904.4477 – Telephone

Attorneys for Appellant

On February 16, 2022, Petitioner Emad Bishai pled guilty to a newly filed Class A misdemeanor and was placed on deferred adjudication for one year. The indictments pending against Dr. Bishai, including the indictments that were the subject of this appeal, were dismissed according to the plea agreement.¹ As part of that same agreement, Dr. Bishai hereby moves this Court to dismiss his appeal.

Respectfully submitted,

GERGER HENNESSY & MCFARLANE

/s/ Matt Hennessy
Matt Hennessy
Texas Bar No. 00787677
mhennessy@ghmfirm.com
700 Louisiana, Suite 2300
Houston, Texas 77002
713.224.4400 – Telephone
713.224.5153 – Fax

KHALIL LAW PLLC

/s/ Samy Khalil
Texas Bar No. 24038997
samy@khalil.law
2001 Kirby, Suite 1002
Houston, Texas 77019
713.904.4477 – Telephone
713.565.9915 – Fax

Attorneys for Appellant

¹ Orders dismissing the six indictments underlying this appeal are attached as Exhibit A.

CERTIFICATE OF SERVICE

I certify that a copy of this motion will be served on the Montgomery County District Attorney's Office via e-service.

/s/ Matt Hennessy
Matt Hennessy

EXHIBIT A



CASE NO. 19-11-14893
COUNT
INCIDENT No./TRN: 928086369X

Received and E-Filed for Record
2/17/2022 2:45 PM
Melisa Miller, District Clerk
Montgomery County, Texas
Deputy Clerk, Susie Herman

THE STATE OF TEXAS

V.

EMAD MIKHAIL TEWFIK BISHAI

STATE ID No.: TX-12147122

§ IN THE 359TH
§
§ DISTRICT COURT
§
§ MONTGOMERY COUNTY, TEXAS
§
§

MOTION TO DISMISS

OFFENSE: PRACTICING MEDICINE IN VIOLATION OF SUBTITLE (THIRD DEGREE FELONY)

TO THE HONORABLE JUDGE OF SAID COURT:

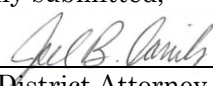
NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitled and number criminal action for the following reason:

- ☐ Cannot prove beyond a reasonable doubt.
- ☒ The Defendant was convicted in another case. 22-364766
- ☐ In custody elsewhere. _____
- ☐ Old case, no arrest.
- ☐ In the interest of justice.
- ☐ Missing witness. _____
- ☐ Request of complaining witness. _____
- ☐ The Defendant is deceased.
- ☐ Motion to suppress granted.
- ☐ Co-Defendant tried, this Defendant testified. _____
- ☐ Insufficient evidence.
- ☐ Restitution made.
- ☐ Co-Defendant convicted , insufficient evidence for this Defendant.
- ☐ Case refiled as Cause No. _____
- ☐ Clearance Letter.
- ☐ No billed by Grand Jury
- ☐ Successfully completed terms of Pretrial Diversion
- ☐ Other.

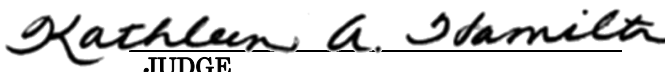
EXPLANATION: _____

WHEREFORE, PREMISES CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted,


Assistant District Attorney
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17th Day Of February, 2022 and the same having been considered, it is , therefore, ORDERED ADJUDGED, and DECREED that said above entitled and numbered cause be and the same is hereby dismissed.


JUDGE
District Court

Minute
18th of February, 2022



CASE NO. 19-11-14894
COUNT
INCIDENT No./TRN: 928086369X

Received and E-Filed for Record
2/17/2022 2:47 PM
Melisa Miller, District Clerk
Montgomery County, Texas
Deputy Clerk, Susie Herman

THE STATE OF TEXAS

V.

EMAD MIKHAIL TEWFIK BISHAI

STATE ID No.: TX-12147122

§ IN THE 359TH
§
§ DISTRICT COURT
§
§ MONTGOMERY COUNTY, TEXAS
§
§

MOTION TO DISMISS

OFFENSE: PRACTICING MEDICINE IN VIOLATION OF SUBTITLE (THIRD DEGREE FELONY)

TO THE HONORABLE JUDGE OF SAID COURT:


NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitled and number criminal action for the following reason:

- ☐ Cannot prove beyond a reasonable doubt.
- ☒ The Defendant was convicted in another case. 22-364766
- ☐ In custody elsewhere. _____
- ☐ Old case, no arrest.
- ☐ In the interest of justice.
- ☐ Missing witness. _____
- ☐ Request of complaining witness. _____
- ☐ The Defendant is deceased.
- ☐ Motion to suppress granted.
- ☐ Co-Defendant tried, this Defendant testified. _____
- ☐ Insufficient evidence.
- ☐ Restitution made.
- ☐ Co-Defendant convicted , insufficient evidence for this Defendant.
- ☐ Case refiled as Cause No. _____
- ☐ Clearance Letter.
- ☐ No billed by Grand Jury
- ☐ Successfully completed terms of Pretrial Diversion
- ☐ Other.

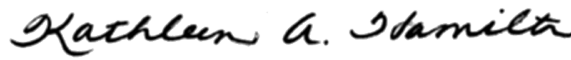
EXPLANATION: _____

WHEREFORE, PREMISES CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted,


Assistant District Attorney
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17th Day Of February, 2022 and the same having been considered, it is , therefore, ORDERED ADJUDGED, and DECREED that said above entitled and numbered cause be and the same is hereby dismissed.


JUDGE
District Court

Minute
18th of February, 2022



CASE NO. 19-11-14896
COUNT
INCIDENT No./TRN: 928086369X

Received and E-Filed for Record
2/17/2022 2:30 PM
Melisa Miller, District Clerk
Montgomery County, Texas
Deputy Clerk, Susie Herman

THE STATE OF TEXAS

V.

EMAD MIKHAIL TEWFIK BISHAI

STATE ID No.: TX-12147122

§ IN THE 359TH
§
§ DISTRICT COURT
§
§ MONTGOMERY COUNTY, TEXAS
§
§

MOTION TO DISMISS

OFFENSE: PRACTICING MEDICINE IN VIOLATION OF SUBTITLE (THIRD DEGREE FELONY)

TO THE HONORABLE JUDGE OF SAID COURT:

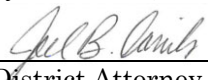
NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitled and number criminal action for the following reason:

- ☐ Cannot prove beyond a reasonable doubt.
- ☒ The Defendant was convicted in another case. 22-364766
- ☐ In custody elsewhere. _____
- ☐ Old case, no arrest.
- ☐ In the interest of justice.
- ☐ Missing witness. _____
- ☐ Request of complaining witness. _____
- ☐ The Defendant is deceased.
- ☐ Motion to suppress granted.
- ☐ Co-Defendant tried, this Defendant testified. _____
- ☐ Insufficient evidence.
- ☐ Restitution made.
- ☐ Co-Defendant convicted , insufficient evidence for this Defendant.
- ☐ Case refiled as Cause No. _____
- ☐ Clearance Letter.
- ☐ No billed by Grand Jury
- ☐ Successfully completed terms of Pretrial Diversion
- ☐ Other.

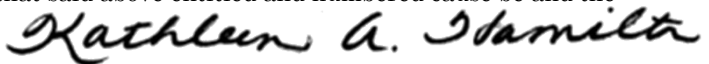
EXPLANATION: _____

WHEREFORE, PREMISES CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted,


Assistant District Attorney
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17th Day Of February, 2022 and the same having been considered, it is , therefore, ORDERED ADJUDGED, and DECREED that said above entitled and numbered cause be and the same is hereby dismissed.



JUDGE
District Court



CASE NO. 19-11-14902
COUNT
INCIDENT No./TRN: 928086369X

Received and E-Filed for Record
2/17/2022 2:40 PM
Melisa Miller, District Clerk
Montgomery County, Texas
Deputy Clerk, Susie Herman

THE STATE OF TEXAS

V.

EMAD MIKHAIL TEWFIK BISHAI

STATE ID No.: TX-12147122

§ IN THE 359TH
§
§ DISTRICT COURT
§
§ MONTGOMERY COUNTY, TEXAS
§
§

MOTION TO DISMISS

OFFENSE: PRACTICING MEDICINE IN VIOLATION OF SUBTITLE (THIRD DEGREE FELONY)

TO THE HONORABLE JUDGE OF SAID COURT:

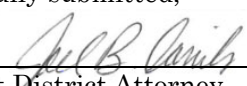
NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitled and number criminal action for the following reason:

- ☐ Cannot prove beyond a reasonable doubt.
- ☒ The Defendant was convicted in another case. 22-364766
- ☐ In custody elsewhere. _____
- ☐ Old case, no arrest.
- ☐ In the interest of justice.
- ☐ Missing witness. _____
- ☐ Request of complaining witness. _____
- ☐ The Defendant is deceased.
- ☐ Motion to suppress granted.
- ☐ Co-Defendant tried, this Defendant testified. _____
- ☐ Insufficient evidence.
- ☐ Restitution made.
- ☐ Co-Defendant convicted , insufficient evidence for this Defendant.
- ☐ Case refiled as Cause No. _____
- ☐ Clearance Letter.
- ☐ No billed by Grand Jury
- ☐ Successfully completed terms of Pretrial Diversion
- ☐ Other.

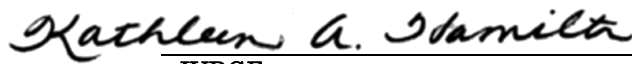
EXPLANATION: _____

WHEREFORE, PREMISES CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted,


Assistant District Attorney
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17th Day Of February, 2022 and the same having been considered, it is , therefore, ORDERED ADJUDGED, and DECREED that said above entitled and numbered cause be and the same is hereby dismissed.


JUDGE
District Court

Minute
18th of February, 2022



CASE NO. 19-11-14905
COUNT
INCIDENT No./TRN: 928086369X

Received and E-Filed for Record
2/17/2022 2:34 PM
Melisa Miller, District Clerk
Montgomery County, Texas
Deputy Clerk, Susie Herman

THE STATE OF TEXAS

V.

EMAD MIKHAIL TEWFIK BISHAI

STATE ID No.: TX-12147122

§ IN THE 359TH
§
§ DISTRICT COURT
§
§ MONTGOMERY COUNTY, TEXAS
§
§

MOTION TO DISMISS

OFFENSE: PRACTICING MEDICINE IN VIOLATION OF SUBTITLE (THIRD DEGREE FELONY)

TO THE HONORABLE JUDGE OF SAID COURT:


NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitled and number criminal action for the following reason:

- ☐ Cannot prove beyond a reasonable doubt.
- ☒ The Defendant was convicted in another case. 22-364766
- ☐ In custody elsewhere. _____
- ☐ Old case, no arrest.
- ☐ In the interest of justice.
- ☐ Missing witness. _____
- ☐ Request of complaining witness. _____
- ☐ The Defendant is deceased.
- ☐ Motion to suppress granted.
- ☐ Co-Defendant tried, this Defendant testified. _____
- ☐ Insufficient evidence.
- ☐ Restitution made.
- ☐ Co-Defendant convicted , insufficient evidence for this Defendant.
- ☐ Case refiled as Cause No. _____
- ☐ Clearance Letter.
- ☐ No billed by Grand Jury
- ☐ Successfully completed terms of Pretrial Diversion
- ☐ Other.

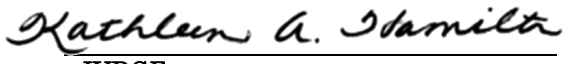
EXPLANATION: _____

WHEREFORE, PREMISES CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted,


Assistant District Attorney
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17th Day Of February, 2022 and the same having been considered, it is , therefore, ORDERED ADJUDGED, and DECREED that said above entitled and numbered cause be and the same is hereby dismissed.


JUDGE
District Court

Minute
18th of February, 2022



CASE No. 20-09-11172
COUNT
INCIDENT No./TRN: 9280979507

Received and E-Filed for Record
2/17/2022 2:43 PM
Melisa Miller, District Clerk
Montgomery County, Texas
Deputy Clerk, Susie Herman

THE STATE OF TEXAS

V.

EMAD MIKHAIL TEWFIK BISHAI

STATE ID No.: TX-12147122

§ IN THE 359TH
§
§ DISTRICT COURT
§
§ MONTGOMERY COUNTY, TEXAS
§
§

MOTION TO DISMISS

OFFENSE: PRACTICING MEDICINE IN VIOLATION OF SUBTITLE (THIRD DEGREE FELONY)

TO THE HONORABLE JUDGE OF SAID COURT:

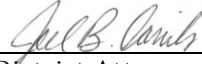
NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitled and number criminal action for the following reason:

- ☐ Cannot prove beyond a reasonable doubt.
- ☒ The Defendant was convicted in another case. 22-364766
- ☐ In custody elsewhere. _____
- ☐ Old case, no arrest.
- ☐ In the interest of justice.
- ☐ Missing witness. _____
- ☐ Request of complaining witness. _____
- ☐ The Defendant is deceased.
- ☐ Motion to suppress granted.
- ☐ Co-Defendant tried, this Defendant testified. _____
- ☐ Insufficient evidence.
- ☐ Restitution made.
- ☐ Co-Defendant convicted , insufficient evidence for this Defendant.
- ☐ Case refiled as Cause No. _____
- ☐ Clearance Letter.
- ☐ No billed by Grand Jury
- ☐ Successfully completed terms of Pretrial Diversion
- ☐ Other.

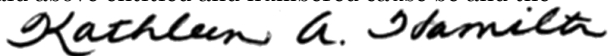
EXPLANATION: _____

WHEREFORE, PREMISES CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted,


Assistant District Attorney
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17th Day Of February, 2022 and the same having been considered, it is , therefore, ORDERED ADJUDGED, and DECREED that said above entitled and numbered cause be and the same is hereby dismissed.



JUDGE
District Court

Minute
18th of February, 2022